

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BRASSICA PROTECTION PRODUCTS LLC,

1:07-cv-07844-SAS

Plaintiff,

-against-

CAUDILL SEED & WAREHOUSE CO., INC.

Defendant.

**DECLARATION OF KELLY A. KUHLE
IN SUPPORT OF DEFENDANT CAUDILL SEED & WAREHOUSE CO., INC.'S MOTION
TO TRANSFER, STAY, OR DISMISS**

I, Kelly A. Kuhl, make the following declaration pursuant to 28 U.S.C. § 1746, and declare as follows:

1. I am a paralegal with the law firm Frost Brown Todd LLC, counsel for the Defendant Caudill Seed & Warehouse Co., Inc., (Hereinafter "Caudill"), in the above captioned action.

2. I have personally researched using the internet website for the United States District Court for the Western District of Kentucky at Louisville, via PACER, the Court Docket in re *Caudill Seed & Warehouse Co., Inc. d/b/a Caudill Seed Co. v. Brassica Protection Products LLC*, Civil Action No. 3:07CV464 ("the Kentucky Action"). The Complaint for Declaratory Judgment was filed electronically with the Court on September 4, 2007, and assigned to Judge Jennifer B. Coffman. A copy of the Complaint is attached hereto as Exhibit 1.

3. I have personally researched using the internet website for the United States District Court for the Southern District of New York at Foley Square, via PACER, the Court Docket for the current action *Brassica Protection Products LLC v. Caudill Seed & Warehouse Co., Inc.*, Civil Action No: 1:07CV7844SAS ("the New York action"). The Complaint was filed manually with the

Exh G

Decl of Kelly Kuhl

Court on September 5, 2007, with additional exhibits filed on September 7, 2007. A copy of the Complaint is attached hereto as Exhibit 2.

4. I have personally researched using the internet website for the United States District Court for the Southern District of New York at Foley Square, via PACER, the Court Docket for the current action *Brassica Protection Products LLC v. Caudill Seed & Warehouse Co., Inc.*, Civil Action No: 1:07CV7845DC. The Notice of Removal was manually filed with the Court on September 5, 2007, removing the Supreme Court of the State of New York, New York County matter to the United States District Court for the Southern District of New York. A copy of the Notice of Removal is attached hereto as Exhibit 3. On September 6, 2007, BPP electronically filed a Notice of Dismissal in Civil Action No: 1:07CV7845DC. A copy of the Notice of Dismissal is attached hereto as Exhibit 4. And on September 10, 2007, the matter was dismissed without prejudice. A copy of the Court Docket is attached hereto as Exhibit 5.

5. I have personally researched on the Federal Judiciary homepage at www.uscourts.gov, the Judicial Caseload Profiles for the U.S. Districts of Western Kentucky and Southern New York. In the Western District of Kentucky, civil filings per Judgeship were 316 in 2004, 321 in 2005 and 314 in 2006; and the median time from filing to disposition in civil matters was 10.0 months in 2004, 11.0 months in 2005 and 8.7 months in 2006. Furthermore, the median time from filing to trial was 20.3 months in 2004, 32.0 months in 2005 and 27.5 months in 2006. In the Southern District of New York, civil filings per Judgeship were 388 in 2004, 409 in 2005 and 385 in 2006; and the median time from filing to disposition in civil matters was 8.1 months in 2004, 8.8 months in 2005 and 8.3 months in 2006. Furthermore, the median time from filing to trial was 26.8 months in 2004, 22.0 months in 2005 and 25.7 months in 2006. Copies of the of the U.S. District Court - Judicial Caseload Profile webpages are attached hereto as Exhibit 6.

I declare under penalty of perjury the foregoing is true and correct, to the best of my knowledge, information and belief.

11/20/07
Date

Kelly A. Kuhl
Kelly A. Kuhl

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